

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Miracle Communications, Inc., for Registration as an Interexchange Carrier Telephone Corporation Pursuant to the Provisions of Public Utilities Code Section 1013.

Application 12-10-008  
(Filed October 15, 2012)

**DECISION ADOPTING SETTLEMENT AND GRANTING  
MIRACLE COMMUNICATIONS, INC.  
A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY  
TO PROVIDE RESOLD INTEREXCHANGE SERVICE**

**Summary**

Pursuant to Public Utilities Code § 1001,<sup>1</sup> we adopt the settlement between Miracle Communications Inc., and Safety and Enforcement Division and grant Miracle Communications Inc. a certificate of public convenience and necessity to provide resold interexchange service in California subject to the terms and conditions set forth in the Ordering Paragraphs.

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<sup>1</sup> While this application was filed pursuant to Pub. Util. Code § 1013, an expedited and ministerial registration process, the Protest and resulting assignment to an administrative law judge removed it from the registration track. It has therefore been evaluated as a certificate of public convenience and necessity under § 1001.

## 1. Background

Miracle Communications Inc., (Applicant or Miracle) is a corporation operating and existing under the laws of the State of California. On September 14, 1999, in Decision (D.) 99-09-049, Miracle was granted operating authority and a registration license (U6243) to provide resold inter and intra-local access and transport area services in California as a non-dominant interexchange telecommunications carrier. However, on April 19, 2012, through Resolution T-17359, the Commission revoked Miracle's operating authority and canceled its registration license for failure to post a performance bond.

On October 15, 2012, Miracle filed this application for a Registration License, which provided proof of a performance bond and requested reinstatement of its operating authority. Item 8 of the application requires applicants to answer true or false to the statement "[n]either applicant, any of its affiliates, officers, directors, partners, agents, or owners (directly or indirectly) of more than 10% of applicant, or anyone acting in a management capacity for applicant..." had a telecommunications license or operating authority denied, suspended, revoked or limited in any jurisdiction." Although Miracle's authority to operate had been revoked in resolution T-17359, it responded "True" to the statements in Item 8.

Miracle's filing for reinstatement was made in response to its revocation. Miracle states that the inaccurate response was inadvertent and not intended to mislead the Commission.

On November 19, 2012, Safety and Enforcement Division (SED) filed a protest to Application (A.) 12-10-008 alleging that Miracle's response to Item 8 of the application constituted a violation of Rule 1.1 of the Commission's Rule of Practice and Procedure, and asserting that Miracle may have violated Pub. Util.

Code § 1013. SED requested that the Commission impose a penalty against Miracle for the alleged violation.

A prehearing conference (PHC) was held on February 7, 2013. At the prehearing conference parties informed the Administrative Law Judge (ALJ) that settlement negotiations were reasonable prior to establishing a formal procedural schedule. A second prehearing conference was held on March 23, 2013 and parties informed the ALJ that a settlement had been reached and would be filed as soon as it was formalized. The settlement along with the motion seeking its adoption was filed April 29, 2013.

Applicant's principle place of business is located at 725 Lakefield Road, Suite C, Westlake Village, California 91361.

## **2. Jurisdiction**

Public Utilities Code Section 216(a) defines the term "Public utility" to include a "telephone corporation," which in turn is defined in Public Utilities Code Section 234(a) as "every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state."

Miracle proposes to provide resold services, via interconnection with other providers, throughout California as a non-dominant interexchange telecommunications carrier. Miracle is a telephone corporation and a public utility subject to our jurisdiction.

## **3. The Settlement Agreement**

As noted in the Background section above, the Application was protested, and the Parties to the proceeding were able to reach a settlement. The Parties agree that the Proposed Settlement is intended to fully resolve all issues raised in SED's protest. In the Joint Motion, the settling Parties summarize the key terms and commitments set out in the Settlement as follows:

- Miracle admits that it violated Rule 1.1 of the Commission's Rules of Practice and Procedure by inadvertently providing an inaccurate response to Item 8 of the application form.<sup>2</sup>
- Miracle agrees to pay a penalty of \$6,000 to the State of California General Fund for the violation of Rule 1.1, payable in 12 monthly installments.<sup>3</sup>
- The Parties agree that the authority sought in the Application does not constitute retroactive authority and that any authority granted by the Commission with respect to the Application be effective from the date of a final decision adopted by the Commission in Application 12-10-008.<sup>4</sup>

The Settlement is in the public interest. It is consistent with the Commission's well-established policy of supporting resolution of disputed matters through settlement, and it avoids the time, expense, and uncertainty of evidentiary hearings and further litigation. We find that the benefits to the public, including payment to the General Fund, outweigh the benefits of continued litigation and its associated cost.

The Commission has historically favored settlements that are fair and reasonable in light of the record as a whole. We find that the joint statement of facts in the Settlement provide a clear and succinct description of the facts surrounding the dispute between the Parties.

Further, we find that nothing in the Settlement contravenes any statutory provisions or prior Commission decisions, and it provides sufficient information

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<sup>2</sup> Settlement Agreement, paragraph 11.

<sup>3</sup> Settlement Agreement, paragraph 12.

<sup>4</sup> Settlement Agreement paragraph 14.

for the Commission to discharge its future regulatory obligations. The Settlement does not contradict current Commission rules and it does not constitute a precedent regarding any principle or issue in this proceeding or any future proceeding.

As for the penalty amount proposed in the Settlement, we look to the criteria established in D.98-12-075, Appendix B, which has provided guidance in similar cases. We consider the following criteria: 1) the severity of the economic or physical harm resulting from the violation; 2) the utility's conduct to prevent, detect, disclose, and rectify the violation; 3) the utility's financial resources; 4) the public interest involved; 5) the totality of the circumstances; and 6) Commission precedent.

We find the penalty amount of \$6,000 to be reasonable. The Applicant began operation in 1999 and only fell out of compliance with Commission rules when it failed to post a performance bond. No consumer complaints have been filed with the Commission regarding Miracle's service and Miracle has complied with the Commission's requirements for timely payment of surcharges and fees. Based on Commission precedent and a review of Miracle's finances, the \$6,000 penalty is reasonable, and represents a significant penalty to the Applicant, but would not impact its ability to continue providing service to its customer base. We find the Settlement is in the public interest, reasonable in light of the record as a whole, and consistent with the law. The Settlement resolves all issues before the Commission in this proceeding.

#### **4. California Environmental Quality Act**

The CEQA requires the Commission act as the designated lead agency to assess the potential environmental impact of a project in order that adverse effects are avoided, alternatives are investigated, and environmental quality is

restored or enhanced to the fullest extent possible. Since Miracle states that it intends to operate as a switchless reseller, it can be seen with certainty that there is no possibility that granting this application will have an adverse impact upon the environment. If in the future Miracle files an application pursuing a limited or full facilities-based CPCN, Miracle must not begin construction of facilities beyond those authorized by this decision until submitting to any necessary CEQA review.

## **5, Financial Qualifications**

To be granted a CPCN, an applicant for authority to provide resold intra- and inter-state interexchange services must demonstrate that it has a minimum of \$25,000 cash or cash equivalent to meet the firm's start-up expenses.<sup>5</sup> An applicant must also demonstrate that it has sufficient additional resources to cover all deposits required by local exchange carriers and/or interexchange carriers in order to provide the proposed service.<sup>6</sup> In the application, Miracle provided a bank statement demonstrating that \$25,000 would be available to Miracle for one year following certification. Miracle has an ongoing relationship with the carriers whose services are being resold, therefore, additional deposits are not required by the interconnecting carriers. Miracle has provided documentation that it possesses a minimum of \$25,000 that is reasonably liquid and available, and has provided that it obtained a performance bond. Therefore,

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<sup>5</sup> The financial requirement for Competitive Local Exchange Carriers (CLEC) is contained in D.95-12-056, Appendix C. The financial requirement for Non-Dominant Interexchange Carriers (NDIEC) is contained in D.91-10-041.

<sup>6</sup> The requirement for Competitive Local Carrier (CLC) applicants to demonstrate that they have additional financial resources to meet any deposits required by underlying Local Exchange Carriers (LEC) and/or IECs is set forth in D.95-12-056, Appendix C. For NDIECs, the requirement is found in D.93-05-010.

Miracle has demonstrated that it has sufficient funds to meet its start-up expenses and has fulfilled this requirement.

Applicant proposed to initially interconnect with Level Three and Mercury Telecom and stated that no deposit is required. Therefore, no additional resources are required at this time to cover deposits.

## **6. Technical Qualifications**

To be granted a CPCN for authority to provide local exchange and interexchange service, an applicant must make a reasonable showing of managerial and technical expertise in telecommunications or a related business.<sup>7</sup> In its application Miracle supplied biographical information on its management that demonstrated it has sufficient expertise and training to operate as a telecommunications provider.

In Question 8 of its application, Miracle stated that no one associated with or employed by Miracle as an affiliate, officer, director, partner, or owner of more than 10% of Miracle was previously associated with a telecommunications carrier that filed for bankruptcy, was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order, or has been found either civilly or criminally liable by a court of appropriate jurisdiction for a violation of § 17000, et seq. of the California Business and Professions Code, or for any actions which involved misrepresentations to consumers, nor is currently under investigation for similar violations. As noted above, Miracle's operating authority was revoked in 2012 for failing to provide a performance bond. Miracle has admitted that its response

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<sup>7</sup> D. 95-12-056 at Appendix C, Rule 4.A.

was an inadvertent error and as a result of the Settlement has agreed to a fine of \$6,000, and it now possesses the required bond.

For the above reasons, we find that Miracle is in compliance with the requirements of D.95-12-056.

## **7. Tariffs**

Applicant has requested authority to operate on a de-tariffed basis. This request is granted as Miracle will not provide Basic Local, Access or Special Access Services. Miracle states that its contracts with customers will be consistent with the consumer protection rules established in D.98-08-031 and contain all applicable Commission fees and surcharges.

## **8. Expected Customer Base**

In response to an email request from the ALJ, Miracle provided its estimated customer base for the first and fifth years. Therefore, Miracle has complied with this requirement.

## **9. Request for Treatment as a Non-dominant Carrier**

Applicant requests treatment as a non-dominant interexchange carrier, which would include exemption from the requirements of Pub. Util. Code §§ 816-830 concerning stocks and security and § 851 concerning the encumbrance and transfer of utility property. The Commission detailed its rules regarding exemption of non-dominant carriers in D.85-01-008, and subsequently modified in D.85-07-081 and D.85-11-044. We grant Applicant's request for non-dominant interexchange carrier status, provided that they follow all rules detailed in the above referenced decisions.<sup>8</sup>

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<sup>8</sup> While the Commission has granted exemption from §§ 816 - 830 to others, exemption from §§ 851 - 854 has not been granted previously and is not granted here.



## 10. Conclusion

As a result of the above considerations, we find that the Settlement is (1) in the public interest; (2) reasonable in light of the record; and (3) consistent with the law. The record of this proceeding consists principally of the Application, the protest of SED, and the Joint Motion to approve the Settlement Agreement. We find that a record based on these filed materials is adequate to enable us to determine that the settlement meets the Commission's standards for approval of settlements in general. Therefore, the Settlement Agreement is approved.

We also conclude that the application conforms to our rules for certification as an interexchange carrier. Accordingly, we grant Miracle a CPCN to provide resold local interexchange service by interconnecting with Level 3 and Mercury Telecom subject to compliance with the terms and conditions set forth in the Ordering Paragraphs.

The CPCN granted by this decision provides benefits to Miracle and corresponding obligations. Miracle receives authority to request interconnection with other telecommunications carriers in accordance with Section 251 of the Federal Communications Act (47 U.S.C. 251). In return, Miracle is obligated to comply with all applicable Public Utilities Codes and Commission Rules, GOs, and decisions applicable to telecommunications carriers providing approved services. The applicable Codes, Rules, etc. include, but are not limited to consumer protection rules, tariffing, and reporting requirements. Moreover, Miracle is obligated to pay all Commission prescribed user fees and public purpose program surcharges as set forth in the Appendix B of this decision, and to adhere to Pub. Util. Code Section 451 which states that every public utility "...shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities, including telephone

facilities, as defined in Section 54.1 of the Civil Code, as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.”

### **11. Categorization and Need for Hearing**

In Resolution ALJ 176-3303, dated October 25, 2012, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. On November 19, 2012, SED, filed a protest to the application. On February 7, 2013, the assigned ALJ held the first of two pre-hearing conferences prior to the Parties filing a Settlement. Since the Parties have reached settlement and the Joint Motion for Approval of Settlement Agreement has been filed, no hearings are necessary in this proceeding.

### **12. Waiver of Comments on Proposed Decision**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2), the otherwise applicable 30-day period for public review and comment is waived.

### **13. Assignment of Proceeding**

Catherine J. K. Sandoval is the assigned Commissioner and Linda A. Rochester is the assigned ALJ in this proceeding.

### **Findings of Fact**

1. Miracle Communications Inc. is a telephone corporation and a public utility as defined in Pub. Util. Code §§ 234(a) and 216(a).

2. Notice of the application appeared on the Daily Calendar on October 18, 2012. SED filed a protest on November 19, 2012. Prehearing conferences were held on February 7, 2013 and March 23, 2013.

3. The parties negotiated and reached a Settlement Agreement. A joint Motion for approval of the Settlement Agreement was filed on April 29, 2013.

4. The Settlement Agreement is (1) reasonable in light of the record: (2) consistent with the law; and, (3) in the public interest.

5. The Settlement Agreement conveys to the Commission sufficient information to permit the Commission to discharge its future regulatory obligations with respect to the parties and their interests.

6. Miracle Communications Inc. has a minimum of \$25,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.

7. Miracle's management possesses sufficient experience, knowledge, and technical expertise to provide local exchange services to the public.

8. Except as noted above and resolved by the Settlement, no one associated with or employed by Miracle Communications Inc. as an affiliate, officer, director, partner, or owner of more than 10% of Miracle Communications Inc. was: previously associated with a telecommunications carrier that filed for bankruptcy; was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order; or was previously associated with any telecommunication carrier that has been found either civilly or criminally liable by a court of appropriate jurisdiction for a violation of § 17000, et seq. of the California Business and Professions Code, or for any actions which involved misrepresentations to consumers, nor is currently under investigation for similar violations.

9. Miracle provided an estimate of its customer base for the first and fifth year of operation.

10. Miracle provided proof that it obtained a performance bond.

### **Conclusions of Law**

1. Nothing in the Settlement Agreement contravenes any statute or Commission decision or rule.
2. The benefits to the public of the Settlement Agreement outweigh the benefits of continued litigation.
3. With the filing of the Settlement Agreement, this proceeding becomes an uncontested matter. In approving the transaction and accepting the Settlement Agreement, we are granting the relief requested.
4. The penalty level of the Settlement Agreement is reasonable given the totality of the circumstances.
5. The Settlement Agreement should be approved.
6. Hearings are not necessary in this proceeding.
7. Miracle should be granted a CPCN to provide resold interexchange telecommunications service, subject to the terms and conditions set forth in the Ordering Paragraphs.
8. Miracle, once granted a CPCN, should be subject to the applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.
9. Miracle should be granted non-dominant carrier status, subject to Commission rules and regulations as detailed in D.85-01-008 and modified in D.85-07-081 and D.85-11-044.

**O R D E R****IT IS ORDERED** that:

1. The April 29, 2013 Joint Motion by Miracle Communications Inc. and the Commission's Safety and Enforcement Division, for Commission Adoption of Settlement, is granted and the Settlement Agreement is approved.

2. Miracle Communications Inc. shall pay a penalty of \$6,000 in 12 monthly installments by check or money order payable to the California Public Utilities Commission and mailed or delivered to the Commission's Fiscal Office at 505 Van Ness Avenue, San Francisco, California 94102. The first installment is due within 30 days of this effective date of this decision. Miracle shall write on the face of the check or money order "For deposit to the General Fund per Decision 14-12-      ".

3. A certificate of public convenience and necessity is granted to Miracle Communications, Inc. to provide resold interexchange service in California, subject to the terms and conditions set forth below.

4. The corporate identification number assigned to Miracle Communications, Inc., U7273C, must be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

5. Miracle Communications, Inc. must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (i.e., there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, Miracle Communications, Inc. must submit a Tier-1 advice letter to the Director of Communications, containing a copy of the license holder's executed bond, and

submit a Tier-1 advice letter annually, but not later than March 31, with a copy of the executed bond.

6. Miracle Communications, Inc. must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a certificate of public convenience and necessity if a carrier is more than 120 days late in providing the Director of the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.

7. In addition to all the requirements applicable to interexchange carriers included in Attachments A, B, and C to this decision, Miracle Communications, Inc. is subject to the Consumer Protection Rules contained in General Order 168, and all applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

8. Miracle Communications, Inc. must file, in this docket, a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.

9. Miracle Communications, Inc. must annually pay the user fee and public purpose surcharges specified in Attachment B. Per the instructions in Exhibit E to Decision 00-10-028, the Combined California Public Utilities Commission Telephone Surcharge Transmittal Form must be submitted even if the amount due is \$0. Miracle must pay a minimum user fee of \$100 or 0.18% of gross intrastate revenue, whichever is greater. Under Public Utilities Code § 405, carriers that are in default of reporting and submitting user fees for a period of 30 days or more will be subject to penalties including suspension or revocation of their authority to operate in California.

10. Prior to initiating service, Miracle Communications, Inc. must provide the Commission's Consumer Affairs Branch with the name and address of its designated contact person(s) for purposes of resolving consumer complaints. This information must be updated if the name or telephone number changes, or at least annually.

11. Prior to initiating service, Applicant must provide the Commission's Communications Division with the name and address of its designated regulatory/official contact person(s). This information must be provided electronically, using the "Regulatory/Official Contact Information Update Request" found at <http://www.cpuc.ca.gov/PUC/telco/Information+for+providing+service/>. This information must be updated if the name or telephone number changes, or at least annually.

12. Miracle Communications, Inc. must file an affiliate transaction report with the Director of the Communications Division, in compliance with Decision 93-02-019, on a calendar year basis using the form contained in Attachment C to this decision.

13. Miracle Communications, Inc. must file an annual report with the Director of the Communications Division, in compliance with General Order 104-A, on a calendar-year basis with the information contained in Attachment B to this decision.

14. Application 12-10-008 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.



## ATTACHMENT A

### REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE CARRIERS AND INTEREXCHANGE CARRIERS

1. Applicant must file, **in this docket with reference to this decision number,**<sup>1</sup> a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.

2. Applicant is subject to the following fees and surcharges that must be regularly remitted. Per the instructions in Exhibit E to Decision (D.) 00-10-028, the Combined California PUC Telephone Surcharge Transmittal Form must be submitted even if the amount due is \$0.

- a. The Universal Lifeline Telephone Service Trust Administrative Committee Fund (Pub. Util. Code § 879);
- b. The California Relay Service and Communications Devices Fund (Pub. Util. Code § 2881; D.98-12-073);
- c. The California High Cost Fund-A (Pub. Util. Code § 739.3; D.96-10-066, at 3-4, App. B, Rule 1.C);
- d. The California High Cost Fund-B (D.96-10-066, at 191, App. B, Rule 6.F.; D.07-12-054);
- e. The California Advanced Services Fund (D.07-12-054);
- f. The California Teleconnect Fund (D.96-10-066, at 88, App. B, Rule 8.G).
- g. The User Fee provided in Pub. Util. Code §§ 431-435. The minimum annual User Fee is \$100, as set forth in D.13-05-035.

Note: These fees change periodically. In compliance with Resolution T-16901, December 2, 2004, Applicant must check the joint tariff for surcharges and fees filed by Pacific Bell

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<sup>1</sup> **Written acceptance filed in this docket does not reopen the proceeding.**

Telephone Company (dba AT&T California) and apply the current surcharge and fee amounts in that joint tariff on end-user bills until further revised. Current and historical surcharge rates can be found at <http://www.cpuc.ca.gov/PUC/Telco/Consumer+Information/surcharges.htm>.

- Carriers must report and remit CPUC telephone program surcharges online using the CPUC Telecommunications and User Fees Filing System (TUFFS). Information and instructions for online reporting and payment of surcharges are available at <http://www.cpuc.ca.gov/PUC/Telco/Information+for+providing+service/Surcharge+Remittance.htm>. To request a user ID and password for TUFFS online filing and for questions, please e-mail [Telco\\_surcharges@cpuc.ca.gov](mailto:Telco_surcharges@cpuc.ca.gov).
- Carriers must file and pay the PUC User Fee (see above item 2g) upon receiving the User Fee statement sent by the Commission. User Fees cannot be reported or paid online. Instructions for reporting filing are available at <http://www.cpuc.ca.gov/PUC/Telco/Information+for+providing+service/userfee.htm>. Please call (415) 703-2470 for questions regarding User Fee reporting and payment.

3. Applicant must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (i.e., there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of Certificate of Public Convenience and Necessity authority, Applicant must submit a Tier-1 advice letter to the Director of Communications, containing a copy of the license holder's executed bond, and submit a Tier-1

advice letter annually, but not later than March 31, with a copy of the executed bond.

4. Applicant must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a Certificate of Public Convenience and Necessity if a carrier is more than 120 days late in providing the Director of the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.

5. Applicant is a competitive local exchange carrier (CLC). The effectiveness of its future tariffs is subject to the requirements of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

6. Applicant is a non-dominant interexchange carrier (NDIEC). The effectiveness of its future NDIEC tariffs is subject to the requirement of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

7. Tariff filings must reflect all fees and surcharges to which Applicant is subject, as reflected in #2 above.

8. Applicant must file a service area map as part of its initial tariff.

9. Prior to initiating service, Applicant must provide the Commission's Consumer Affairs Branch with the name and address of its designated contact person(s) for purposes of resolving consumer complaints. In addition, Applicant must provide the Commission's Communications Division with the name and address of its designated regulatory/official contact persons(s). This information must be provided electronically, using the "Regulatory/Official Contact Information Update Request" found at <http://www.cpuc.ca.gov/PUC/telco/information+for+providing+service/>.

This information must be updated if the name or telephone number changes, or at least annually.

10. Applicant must notify the Director of the Communications Division in writing of the date that local exchange service is first rendered to the public, no later than five days after service first begins.

11. Applicant must notify the Director of the Communications Division in writing of the date local service is first rendered to the public within five days after service begins.

12. Applicant must keep its books and records in accordance with the Generally Accepted Accounting Principles.

13. In the event Applicant's books and records are required for inspection by the Commission or its staff, it must either produce such records at the Commission's offices or reimburse the Commission for the reasonable costs incurred in having Commission staff travel to its office.

14. Applicant must file an annual report with the Director of the Communications Division, in compliance with GO 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

15. Applicant must file an affiliate transaction report with the Director of the Communications Division, in compliance with D.93-02-019, on a calendar-year basis using the form contained in Attachment D.

16. Applicant must ensure that its employees comply with the provisions of Pub. Util. Code § 2889.5 regarding solicitation of customers.

17. Within 60 days of the effective date of this order, Applicant must comply with Pub. Util. Code § 708, Employee Identification Cards, and notify the Director of the Communications Division in writing of its compliance.

18. If Applicant is 90 days or more late in filing an annual report, or in remitting the surcharges and fee listed in #2 above, and has not received written permission from the Communications Division to file or remit late, the Communications Division must prepare for Commission consideration a resolution that revokes Applicant's CPCN.

19. Applicant is exempt from Rule 3.1(b) of the Commission Rules of Practice and Procedure

20. Applicant is exempt from Pub. Util. Code §§ 816-830.

21. Applicant is exempt from the requirements of Pub. Util. Code § 851 for the transfer or encumbrance of property whenever such transfer or encumbrance serves to secure debt.

22. If Applicant decides to discontinue service or file for bankruptcy, it must immediately notify the Communications Division's Bankruptcy Coordinator.

23. Applicant must send a copy of this decision to concerned local permitting agencies no later than 30 days from the date of this order.

**(END OF ATTACHMENT A)**

## **ATTACHMENT B**

### **ANNUAL REPORT**

An original and a machine readable, copy using Microsoft Word or compatible format must be filed with the California Public Utilities Commission, State Office Building, 505 Van Ness Avenue, Room 3107, San Francisco, CA 94102-3298, no later than March 31st of the year following the calendar year for which the annual report is submitted.

Failure to file this information on time may result in a penalty as provided for in Pub. Util. Code §§ 2107 and 2108.

Required information:

1. Exact legal name and U # of the reporting utility.
2. Address.
3. Name, title, address, and telephone number of the person to be contacted concerning the reported information.
4. Name and title of the officer having custody of the general books of account and the address of the office where such books are kept.
5. Type of organization (*e.g.*, corporation, partnership, sole proprietorship, etc.).

If incorporated, specify:

- a. Date of filing articles of incorporation with the Secretary of State.
- b. State in which incorporated.
6. Number and date of the Commission decision granting the Certificate of Public Convenience and Necessity.
7. Date operations were begun.
8. Description of other business activities in which the utility is engaged.
9. List of all affiliated companies and their relationship to the utility. State if affiliate is a:
  - a. Regulated public utility.
  - b. Publicly held corporation.
10. Balance sheet as of December 31st of the year for which information is submitted.
11. Income statement for California operations for the calendar year for which information is submitted.

12. Cash Flow statement as of December 31<sup>st</sup> of the calendar year for which information is submitted, for California operations only.

For answers to any questions concerning this report, call (415) 703-2883.

**(END OF ATTACHMENT B)**

## ATTACHMENT C

### CALENDAR YEAR AFFILIATE TRANSACTION REPORT

An original and a machine readable, copy using Microsoft Word and Excel, or compatible format must be filed with the California Public Utilities Commission, State Office Building, 505 Van Ness Avenue, Room 3107, San Francisco, CA 94102-3298, no later than May 1st of the year following the calendar year for which the annual report is submitted.

1. Each utility must list and provide the following information for each affiliated entity and regulated subsidiary that the utility had during the period covered by the Annual Affiliate Transaction Report.

- Form of organization (*e.g.*, corporation, partnership, joint venture, strategic alliance, etc.);
- Brief description of business activities engaged in;
- Relationship to the utility (*e.g.*, controlling corporation, subsidiary, regulated subsidiary, affiliate);
- Ownership of the utility (including type and percent ownership)
- Voting rights held by the utility and percent; and
- Corporate officers.

2. The utility must prepare and submit a corporate organization chart showing any and all corporate relationships between the utility and its affiliated entities and regulated subsidiaries in #1 above. The chart must have the controlling corporation (if any) at the top of the chart, the utility and any subsidiaries and/or affiliates of the controlling corporation in the middle levels of the chart, and all secondary subsidiaries and affiliates (*e.g.*, a subsidiary that in turn is owned by another subsidiary and/or affiliate) in the lower levels. Any regulated subsidiary must be clearly noted.



3. For a utility that has individuals who are classified as “controlling corporations” of the competitive utility, the utility must only report under the requirements of #1 and #2 above any affiliated entity that either (a) is a public utility or (b) transacts any business with the utility filing the annual report excluding the provision of tariff services.

4. Each annual report must be signed by a corporate officer of the utility stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

5. Any required material that a utility is unable to provide must be reasonably described and the reasons the data cannot be obtained, as well as the efforts expended to obtain the information, must be set forth in the utility’s Annual Affiliate Transaction Report and verified in accordance with Section I-F of Decision 93-02-019.

6. Utilities that do not have affiliated entities must file, in lieu of the annual transaction report, an annual statement to the Commission stating that the utility had no affiliated entities during the report period. This statement must be signed by a corporate officer of the utility, stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

**(END OF ATTACHMENT C)**